

## Message

**From:** Arrazola, Ignacio [arrazola.ignacio@epa.gov]  
**Sent:** 2/1/2018 7:30:52 PM  
**To:** Steketee, John [steketee.john@epa.gov]; Beedle, Michael [beedle.michael@epa.gov]; Harris, Michael [harris.michael@epa.gov]  
**CC:** Mendoza, Stephen [mendoza.stephen@epa.gov]; Zolnierczyk, Kenneth [zolnierczyk.kenneth@epa.gov]; Ramanauskas, Peter [ramanauskas.peter@epa.gov]; Petrovski, David [petrovski.david@epa.gov]; Star, David [star.david@epa.gov]; Klevs, Mardi [klevs.mardi@epa.gov]; Cisneros, Jose [Cisneros.Jose@epa.gov]  
**Subject:** RE: MKC Update -- Call with Dave Crass, Counsel for MKC

**CONFIDENTIAL: ATTORNEY WORK PRODUCT/ATTORNEY-CLIENT PRIVILEGED COMMUNICATION**

Does LCD have a standard letter or communication inviting participation in a PCB FAST process?

John – I suggest working with Peter R. on what we might say initially – which may be as simple as inviting MKC to engage in PCB FAST, providing a link to the toolbox, and noting that upfront, pre-application discussions are an important component of PCB FAST.

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**From:** Steketee, John  
**Sent:** Thursday, February 01, 2018 10:24 AM  
**To:** Beedle, Michael <beedle.michael@epa.gov>; Harris, Michael <harris.michael@epa.gov>; Arrazola, Ignacio <arrazola.ignacio@epa.gov>  
**Cc:** Mendoza, Stephen <mendoza.stephen@epa.gov>; Zolnierczyk, Kenneth <zolnierczyk.kenneth@epa.gov>; Ramanauskas, Peter <ramanauskas.peter@epa.gov>; Petrovski, David <petrovski.david@epa.gov>; Star, David <star.david@epa.gov>; Klevs, Mardi <klevs.mardi@epa.gov>; Cisneros, Jose <Cisneros.Jose@epa.gov>  
**Subject:** RE: MKC Update -- Call with Dave Crass, Counsel for MKC

Ignacio:

Please let me know if I may communicate our decision to counsel for MKC. Also, may I communicate that we are setting parameters on this pre-application process and, if so, what those would be. Thank you.

-John

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**From:** Beedle, Michael  
**Sent:** Thursday, February 01, 2018 10:20 AM  
**To:** Harris, Michael <harris.michael@epa.gov>; Arrazola, Ignacio <arrazola.ignacio@epa.gov>  
**Cc:** Steketee, John <steketee.john@epa.gov>; Mendoza, Stephen <mendoza.stephen@epa.gov>; Zolnierczyk, Kenneth <zolnierczyk.kenneth@epa.gov>; Ramanauskas, Peter <ramanauskas.peter@epa.gov>; Petrovski, David <petrovski.david@epa.gov>; Star, David <star.david@epa.gov>; Klevs, Mardi <klevs.mardi@epa.gov>; Cisneros, Jose <Cisneros.Jose@epa.gov>  
**Subject:** RE: MKC Update -- Call with Dave Crass, Counsel for MKC

Sounds good. We will plan on using the PCB Fast tools as appropriate on this matter. We are hopeful that we will be able to move forward collaboratively on the project.  
 Thanks

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**From:** Harris, Michael  
**Sent:** Wednesday, January 31, 2018 8:04 PM

**To:** Arrazola, Ignacio <arrazola.ignacio@epa.gov>

**Cc:** Steketee, John <steketee.john@epa.gov>; Mendoza, Stephen <mendoza.stephen@epa.gov>; Zolnierczyk, Kenneth <zolnierczyk.kenneth@epa.gov>; Ramanauskas, Peter <ramanauskas.peter@epa.gov>; Beedle, Michael <beedle.michael@epa.gov>; Petrovski, David <petrovski.david@epa.gov>; Star, David <star.david@epa.gov>; Klevs, Mardi <klevs.mardi@epa.gov>

**Subject:** Re: MKC Update -- Call with Dave Crass, Counsel for MKC

Hi Ignacio,

Yes, this sounds similar to our RCRA FIRST approach. Unless there's some reason that I'm not aware of, I think we should consider this approach.

Michael D. Harris  
Deputy Director  
Land and Chemicals Division  
U. S. Environmental Protection Agency, Region 5  
77 West Jackson Blvd.  
Chicago, IL 60604  
(312) 886-0760

On Jan 31, 2018, at 6:01 PM, Arrazola, Ignacio <arrazola.ignacio@epa.gov> wrote:

**Privileged/Deliberative/Enforcement Sensitive/FOIA Exempt**

Thanks John. The concept of an upfront meeting to reach agreement on critical issues, including the overall strategy for cleanup, prior to the submission of an application is contemplated by EPA's PCB Facility Approval Streamlining Toolbox : <https://www.epa.gov/pcbs/pcb-facility-approval-streamlining-toolbox-fast-streamlining-cleanup-approval-process>

Is LCD interested in taking a PCB FAST approach here? It may be a way to put this matter on a more collaborative track with MKC

Sent from my iPhone

On Jan 31, 2018, at 2:07 PM, Steketee, John <steketee.john@epa.gov> wrote:

**Privileged/Deliberative/Enforcement Sensitive/FOIA Exempt**

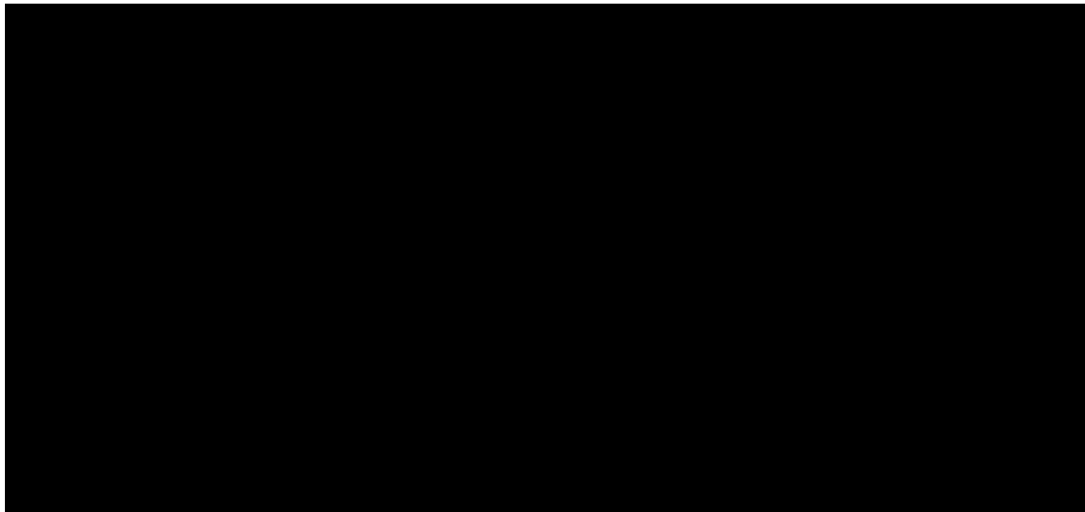
Ignacio:

Here is a brief summary of my call today with counsel for MKC.

1. I notified counsel that the Regional Administrator has recused herself from the matter.
2. I passed on our position that EPA believes MKC has not met its burden to definitively demonstrate that all of the PCBs releases at the MKC site were pre-78, and, as a result, EPA may presume PCBs were illegally disposed of at the site and the Agency may require remediation under TSCA. At counsel's request I described our theory as to why we believes releases continued into the 1980s from the die-casting equipment at the site. We also, discussed the fact that, notwithstanding any pre-78 jurisdictional argument by MKC, EPA could also proceed under the legal theory that there have been, and possibly continue to

be, uncontrolled releases (ongoing releases) of PCBs at or from the facility which pose an unreasonable risk of injury to human health and the environment, and should such a determination be made by the Regional Administrator, EPA could require remediation at the site under TSCA regardless of the date of the original release.

3. I relayed the fact that, due to #2 above, EPA believes MKC is required to apply for a TSCA PCB Approval at the site.
4. I briefly explained why the Agency believes the site is a Type A site (complex) under the WI OneCleanup MOA and EPA's concerns with groundwater contamination at the site.
5. I also described the Agency's various options going forward if MKC continued to take the position that EPA does not have jurisdiction under TSCA at the site.



-John

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**From:** Steketee, John

**Sent:** Wednesday, January 24, 2018 3:45 PM

**To:** Arrazola, Ignacio <[arrazola.ignacio@epa.gov](mailto:arrazola.ignacio@epa.gov)>

**Cc:** Harris, Michael <[harris.michael@epa.gov](mailto:harris.michael@epa.gov)>; Mendoza, Stephen

<[mendoza.stephen@epa.gov](mailto:mendoza.stephen@epa.gov)>; Zolnierczyk, Kenneth <[zolnierczyk.kenneth@epa.gov](mailto:zolnierczyk.kenneth@epa.gov)>;

Ramanauskas, Peter <[ramanauskas.peter@epa.gov](mailto:ramanauskas.peter@epa.gov)>; Beedle, Michael

<[beedle.michael@epa.gov](mailto:beedle.michael@epa.gov)>; Petrovski, David <[petrovski.david@epa.gov](mailto:petrovski.david@epa.gov)>; Star, David

<[star.david@epa.gov](mailto:star.david@epa.gov)>; Klevs, Mardi <[klevs.mardi@epa.gov](mailto:klevs.mardi@epa.gov)>

**Subject:** MKC Update -- Call with Dave Crass, Counsel for MKC

Ignacio:

A quick update on my outreach to counsel for MKC after our meeting today. Dave Crass's secretary returned my call this afternoon and said Dave is unavailable this week to discuss the matter and suggested he and I speak about the matter next week. So we set up a call for next Wednesday, January 31, 2018. I'll update everyone on the status of the matter after that call. Thanks.

Sincerely,

*John P. Steketee*

John P. Steketee  
Associate Regional Counsel  
Office of Regional Counsel  
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